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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/727,683

12/05/2003

Mayme E. Onstad

8464

7590

07/02/2004

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EXAMINER

LAYNO, BENJAMIN

ART UNIT

PAPER NUMBER

3712

DATE MAILED: 07/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/727,683	<b>Applicant(s)</b> ONSTAD ET AL. <span style="float: right;">CN</span>	
	<b>Examiner</b> Benjamin H. Layno	<b>Art Unit</b> 3712	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____.  |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-3, 5, 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gilbert in view of Evans.

The patent to Gilbert discloses a word forming game comprising a plurality of playing pieces or tiles, each having a word indicia on the upper surface, Fig. 1. The tiles when connected together form a written word, Figs. 3 and 4. Gilbert further comprises a code caller card, Fig. 2.

The patent to Evans discloses a word forming game comprising a plurality of playing pieces or tiles having word indicia and Braille 15. In view of such teaching, it would have been obvious to incorporate Braille to Gilbert's playing pieces in order for blind players to play Gilbert's game.

In regard to the claimed "scripture cite from the Bible" in claims 3, 5 and 7, the only difference between the question on Gilbert's code caller card, and scripture cite from the Bible question of the claimed invention, resides in the meaning and information conveyed by printed matter. Such differences are considered unpatentable, ***Ex parte Breslow***, 192 USPQ 431.

Concerning claim 7, to play Gilbert's game, the word tiles are placed face down on a playing surface, and each player randomly selects nine word tiles, col. 3, lines 19-25. A person is chosen to handle a code calling card, the chosen person selects a code calling card, and reads out the question. The player attempts to arrange his/her word tiles to correspond to the answer to the question, col. 3, lines 28-54. If the player cannot arrange his/her word tiles to correctly answer the question, the turn passes to the next player, col. 4, lines 4-6. After the player arranges his/her word tiles to correctly answer the question, the player replenishes his/her word tiles by drawing additional word tiles, col. 3, lines 56-58.

3. Claims 4 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gilbert in view of Evans as applied to claim 1 above, and further in view of Levinrad.

The patent to Levinrad teaches that it is known in the word forming game art to provide a playing board for placing the word tiles. In view of such teaching, it would have been obvious to provide a playing board to Gilbert's game in order to provide a convenient flat surface to play Gilbert's game.

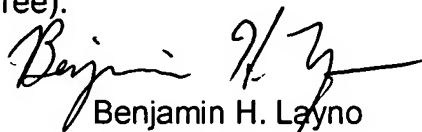
4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patent to Torres discloses a word forming game comprising word tiles 40 having word indicia, and code caller cards 30.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Benjamin H. Layno whose telephone number is (703) 308-1815. The examiner can normally be reached on Monday-Friday, 1st Friday Off.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris Banks can be reached on (703) 308-1745. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Benjamin H. Layno  
Primary Examiner  
Art Unit 3712

bhl